



**COMMONWEALTH of VIRGINIA**  
**Office of the Attorney General**  
**Richmond 23219**

**Kenneth T. Cuccinelli, II**  
Attorney General

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December 2, 2011

The Honorable David K. Paylor, Director  
Virginia Department of Environmental Quality  
629 East Main Street  
Richmond, Virginia 23219

Re: Authority to Promulgate Exempt Final Regulation N11, Federal Documents Incorporated  
by Reference, 9 VAC 5 Chapters 50 and 60

Dear Director Paylor:

I have reviewed the above-referenced regulations. It is my opinion that the State Air Pollution Control Board has authority to promulgate these regulations under applicable law, including Chapter 13 of Title 10.1 of the Code of Virginia and that the proposed amendment comports with applicable state law. Further, it is my opinion that the regulation meets the exemption set forth in Va. Code § 2.2-4006(A)(4)(c) as necessary to meet the requirements of the federal Clean Air Act and does not differ materially from the pertinent U.S. Environmental Protection Agency regulations.

If I may be of any further assistance to you relating to this matter, please do not hesitate to contact me.

Sincerely,

A handwritten signature in cursive script that reads "Kerri L. Nicholas".

Kerri L. Nicholas  
Assistant Attorney General